

U.S. Department of Justice

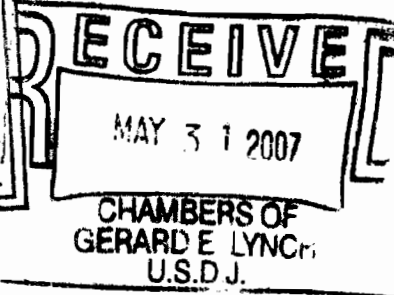
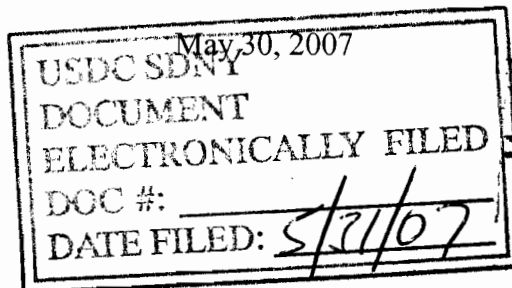


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BY HAND DELIVERY

The Honorable Gerard E. Lynch
United States District Judge
Southern District of New York
500 Pearl Street, Room 910
New York, New York 10007-1312



Re: *Valentin v. The Bronx-Lebanon Hospital Center, et al.*,
No. 07 Civ. 2940 (GEL)

Dear Judge Lynch:

This Office represents Third-Party Defendant Morris Heights Medical Center ("Morris Heights") in the above-referenced medical malpractice action. On May 25, 2007, Morris Heights moved to dismiss the third-party complaint for lack of subject matter jurisdiction. Pursuant to the Court's Individual Practices, we will submit two courtesy copies of all motion papers at the time the reply is served. In the meantime, we write to request a partial stay of discovery while Morris Heights's motion is pending.

As the Court noted at the May 8, 2007 conference, Morris Heights will be subject to non-party discovery even if its motion to dismiss is granted. Morris Heights thus agrees to respond to discovery requests that could be served on a non-party pursuant to Fed. R. Civ. P. 45, *i.e.*, document requests and requests for depositions. However, it would be an undue burden to subject Morris Heights to discovery requests that could be served upon a party, such as interrogatories or requests for admission, until this Court has determined whether it has jurisdiction over the third-party claims raised against Morris Heights. Similarly, it would be an undue burden to require Morris Heights to conduct its own discovery until its status in this action is resolved. Accordingly, Morris Heights requests a stay of its discovery obligations, except for its obligation to respond to discovery requests that could be served on a non-party under Fed. R. Civ. P. 45, until its motion to dismiss is resolved. See Fed. R. Civ. P. 26(c) (district courts may grant any appropriate orders to deny, limit or qualify discovery to protect a party "from annoyance, embarrassment, oppression, or undue burden"). If the Court denies Morris Heights's motion to dismiss, then the parties to the third-party complaint will submit a proposed scheduling order for the remainder of discovery within five business days of the entry of such a denial on the docket.

* SO ORDERED

Gerard E. Lynch
GERARD E. LYNCH, U.S.D.J.

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Hon. Gerard E. Lynch

May 30, 2007

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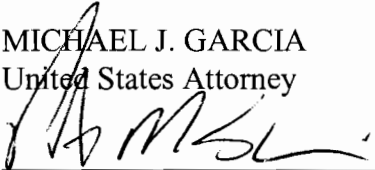
Third-Party Plaintiff Bronx Lebanon Hospital Center, the only other party to the third-party complaint, consents to Morris Heights's request for a partial stay of discovery. The partial stay would not affect the remaining parties to the underlying complaint, as they are not parties to the third-party complaint, and their ability to serve non-party discovery on Morris Heights would remain unchanged.

Thank you for your consideration.

Respectfully,

MICHAEL J. GARCIA
United States Attorney

By:


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cc: (by facsimile)

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